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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/568,999

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EXAMINER

BASKAR, PADMAVATHI

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/568,999	Applicant(s) DREIER ET AL.	
	Examiner PADMA V. BASKAR	Art Unit 1645	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 and 30-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-24 and 30-33 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

RESTRICTION

1 Applicants amendment filed on 2/21/06 has been entered.

Claims 1-24 and 30-33 are pending in the application.

Claims 1, 12, 15, 17-23 have been amended.

It is noted that claims 25-29 and 34-35 are withdrawn . However, applicant has not received any action from the office prior to the amendment filed on 2/21/06. In the absence of text provided in claims and in view of no office action is issued , the examiner is interpreting the claims 25-29 and 34-35 as being canceled. Clarification is requested.

2. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions, which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in response to this action, to elect a single invention to which the claims must be restricted.

Group I, claims 1-17 and 30-33 drawn to isolated pigmented bacterium , immunogenic composition ,a vaccine comprising said bacterium and a biological pure culture.

Further restriction to one bacterium or one SEQ.ID.NO required (see paragraph # 4).

Group II, claim 18 drawn to a method for treating or preventing periodontal disease

Further restriction to one bacterium or one SEQ.ID.NO required (see paragraph # 4).

Group III claims 19 -24 drawn to a method for detecting periodontal disease using bacteria /antibody

Further restriction to one bacterium or one SEQ.ID.NO required (see paragraph # 4).

Group IV, claims 19-24 drawn to a method for detecting periodontal disease using polynucleotide by PCR or hybridization.

Further restriction to one bacterium or one SEQ.ID.NO required (see paragraph # 4).

3. The inventions listed as Groups I-IV do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special feature technical features for the following reasons:

The technical feature of linking groups appears to be that they are all related to bacteria, and methods of using bacteria . However, accession number AJ416906 disclose a genomic DNA corresponding to the partial sequence of the 16S rRNA gene of a Bacteroides , said

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sequence exhibits 98.7 %, percent identity with SEQ.ID.NO: 3 . Therefore, the technical feature of linking groups I-IV does not constitute a special technical feature as defined by PCT Rule 13.2, as it does not define a contribution over the prior art and hence unity of invention is lacking.

The technical feature of Group I is considered to be either bacterium .

The technical feature linking Groups II-IV is considered to be methods utilizing product, bacteria that share no common structure, property and function so as to form a single general inventive concept under Rule 13.1. Hence, unity is lacking among groups II- IV.

Accordingly, Groups I-IV are not so linked by the same or a corresponding special technical feature as to form a single general inventive concept.

DISTINCT INVENTIONS

4. For each group of inventions I-IV above, restriction to one of the following SEQ.ID.NO is also required under 35 U.S.C. 121 and 372. Therefore, election is required of one of inventions I-IV and one of SEQ ID NO:3, 4, 5, 6, 9, 10, 13 or *Bacteroides denticanoris*, ATCC PTA-5881 or *Porphyromonas levii*, ATCC PTA-5882 or *Tannere/la forsythensis* ,ATCC PTA-6063.

Inventions SEQ ID NO:3, 4, 5, 6, 9, 10, 13 or *Bacteroides denticanoris*, ATCC PTA-5881 or *Porphyromonas levii*, ATCC PTA-5882 or *Tannere/la forsythensis* ,ATCC PTA-6063are not so linked as to under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

The claimed peptides SEQ ID NO:3, 4, 5, 6, 9, 10, 13 or *Bacteroides denticanoris*, ATCC PTA-5881 or *Porphyromonas levii*, ATCC PTA-5882 or *Tannere/la forsythensis* ,ATCC PTA-6063 share no common special technical feature because they have no common structure (i.e., no common sequence) so as to form a single general inventive concept. Thus they share no common structure and function so as to form a single general inventive concept under Rule 13.1. Hence, unity is lacking among groups SEQ.ID.NOS and bacteria.

Applicant is required under Restriction is required under 35 U.S.C. 121 and 372 to elect a single disclosed SEQ.ID.NO or bacterium from any group elected.

5. Applicant is required, in reply to this action, to elect a group and one sequence and identify the SEQ.ID.NO or *Bacteroides denticanoris*, ATCC PTA-5881 or *Porphyromonas levii*,

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ATCC PTA-5882 or *Tannere/la forsythensis*, ATCC PTA-6063 to which the claims shall be restricted. The reply must also identify the claims readable on the elected invention, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

6. Papers related to this application may be submitted to Group 1600, AU 1645 by facsimile transmission. Papers should be transmitted via the PTO Fax Center, which receives transmissions 24 hours a day and 7 days a week. The transmission of such papers by facsimile must conform to the notice published in the Official Gazette, 1096 OG 30, November 15, 1989. The Right Fax number is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PMR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PMR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PMR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Padma Baskar Ph.D., whose telephone number is ((571) 272-0853. A message may be left on the Examiner's voice mail system. The Examiner can normally be reached on Monday to Friday from 6.30 a.m. to 4.00 p.m. except First Friday of each bi-week.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shanon Foley can be reached on (571) 272-0898.

Respectfully,
/Padma v Baskar/
Examiner, Art Unit 1645